



Virginia
Regulatory
Town Hall

Final Regulation Agency Background Document

Agency Name:	160
VAC Chapter Number:	20
Regulation Title:	Virginia Waterworks and Wastewater Works Operators Regulation
Action Title:	Final
Date:	December 21, 2000

Please refer to the Administrative Process Act (§ 9-6.14:9.1 *et seq.* of the *Code of Virginia*), Executive Order Twenty-Five (98), Executive Order Fifty-Eight (99) , and the *Virginia Register Form, Style and Procedure Manual* for more information and other materials required to be submitted in the final regulatory action package.

Summary

Please provide a brief summary of the new regulation, amendments to an existing regulation, or the regulation being repealed. There is no need to state each provision or amendment; instead give a summary of the regulatory action. If applicable, generally describe the existing regulation. Do not restate the regulation or the purpose and intent of the regulation in the summary. Rather, alert the reader to all substantive matters or changes contained in the proposed new regulation, amendments to an existing regulation, or the regulation being repealed. Please briefly and generally summarize any substantive changes made since the proposed action was published.

The Board was created to regulate through testing and evaluation, those individuals who operate waterworks or wastewater works facilities. A waterworks is defined as a system that serves piped water for drinking or domestic use to (i) the public, (ii) at least 15 connections, or (iii) an average of 25 individuals for at least 60 days out of the year. The term waterworks shall include all structures, equipment, appurtenances used in the storage, collection, purification, treatment and distribution of pure water except the piping and fixtures inside the building where such water is delivered. A wastewater works is defined as a system of (i) sewerage systems or sewage treatment works serving more than 400 persons, as set forth in Section 62.1-44.18 of the Code of Virginia; (ii) sewerage treatment works serving fewer than 400 persons, as set forth in Section 62.1-44.18 of the Code of Virginia, if so certified by the State Water Control

Board; and (iii) facilities for discharge into state waters of industrial wastes or other wastes, if certified by the State Water Control Board.

The Board's current regulations became effective on August 27, 1992. The proposed regulations are necessary to implement the "Environment Protection Agency Final Guidelines for the Certification and Recertification of the Operators of Community and Nontransient Noncommunity Public Water Systems; Notice" (1999). The new EPA guidelines established a new class for restricted waterworks license and requires continuing professional education (CPE) for waterworks licenses.

The web site address for locating the text of the EPA Guidelines is:

http://frwebgate.access.gpo.gov/cgi-bin/getdoc.cgi?dbname=1999_register&docid=99-2692-filed.pdf

It is necessary to amend the existing regulations to implement the new EPA guidelines to ensure that the state does not lose substantial federal funding.

The proposed regulations establish a new Class VI restricted waterwork operator license as mandated by the new EPA guidelines and includes waterwork operator continuing professional education (CPE) requirements.

In addition, the text of the regulations has been substantially reorganized and revised for clarity and ease of use. The Office of the Attorney General suggested many of the amendments.

Statement of Final Agency Action

Please provide a statement of the final action taken by the agency: including the date the action was taken, the name of the agency taking the action, and the title of the regulation.

On December 21, 2000 the Virginia Board for Waterworks and Wastewater Works Operators adopted the proposed Virginian Board for Waterworks and Wastewater Works Operators regulation as a final regulation.

Basis

Please identify the state and/or federal source of legal authority to promulgate the regulation. The discussion of this statutory authority should: 1) describe its scope and the extent to which it is mandatory or discretionary; and 2) include a brief statement relating the content of the statutory authority to the specific regulation. In addition, where applicable, please describe the extent to which proposed changes exceed federal minimum requirements. Full citations of legal authority and, if available, web site addresses for locating the text of the cited authority, shall be provided. If the final text differs from that of the proposed, please state that the Office of the Attorney General has certified that the agency has the statutory authority to promulgate the final regulation and that it comports with applicable state and/or federal law.

The Board's authority to promulgate the proposed regulations is contained in Section 54.1-201 and Section 54.1-2301 of the Code of Virginia.

The imperative form of the verb "shall" is used in the statute making the rulemaking provisions mandatory rather than discretionary.

Subsection B of 54.1-2301 states "The Board shall examine operators and issue licenses. The licenses may be issued in specific operator classifications to attest to the competency of an operator to supervise and operate waterworks and wastewater works while protecting the public health, welfare and property and conserving and protecting the water resources of the Commonwealth."

The web site address for locating the text of the cited authority is <http://leg1.state.va.us/000/cod/code9115.htm#156944>.

By memorandum dated April 28, 2000, the Office of the Attorney General stated that the agency has the authority to promulgate the proposed regulations under the authority granted the Board under Section 54.1-201(5) of the Code of Virginia.

Purpose

Please provide a statement explaining the need for the new or amended regulation. This statement must include the rationale or justification of the final regulatory action and detail the specific reasons it is essential to protect the health, safety or welfare of citizens. A statement of a general nature is not acceptable, particular rationales must be explicitly discussed. Please include a discussion of the goals of the proposal and the problems the proposal is intended to solve.

The Board's proposed regulations are necessary to implement the mandates of the "Environment Protection Agency: Final Guidelines for the Certification and Recertification of the Operators of Community and Nontransient Noncommunity Public Water Systems; Notice" for small water systems which the Board must implement on or before February 5, 2001. The new EPA guidelines are requiring all waterworks operators fulfill continuing profession education (CPE) requirements. Revisions to the regulations have been made in accordance with the changes brought forward by the Office of the Attorney General. If the EPA guidelines are not implemented by February 5, 2001, the Commonwealth will lose substantial federal funding. The public health objectives of the guidelines and proposed regulations are to ensure that: Customers of any public water system be provided with an adequate supply of safe, potable drinking water; consumers are confident that their water is safe to drink; public water system operators are trained and certified and that they have knowledge and understanding of the public health reasons for drinking water standards.

Substance

Please identify and explain the new substantive provisions, the substantive changes to existing sections, or both where appropriate. Please note that a more detailed discussion is required under the statement of the regulatory action's detail.

The following is a summary of the revisions to the Board's August 27, 1992 regulations that are being proposed to implement changes to the regulations and to implement "Environmental Protection Agency Final Guidelines for the Certification and Recertification of Community and Nontransient Noncommunity Public Water Systems; Notice" (1999).

Under Section 18 VAC 160-20-10 of the proposed regulations, certain definitions have been added, modified or deleted to comply with the Office of Attorney General comments and the Board's decisions.

Sections 18 VAC 160-20-20, 18 VAC 160-20-30, 18 VAC 160-20-40, 18 VAC 160-20-50, 18 VAC 160-20-60, 18 VAC 160-20-70, and 18 VAC 160-20-100 are proposed for repeal in their entirety.

The substance of Sections 18 VAC 160-20-20 and 18 VAC 160-20-70 has been moved to Section 18 VAC 160-20-74. The language now found in Section 18 VAC 160-20-74 continues to require an operator to apply for and hold a valid license in the class and category of the facility operated. Language has been added to void a lower classification of license when a higher classification authorizes practice in all lower classifications. The new language simplifies the regulatory program for licensees and for DPOR.

The substance of Section 18 VAC 160-20-30 has been moved to Section 18 VAC 160-20-106. The language now found in Section 18 VAC 160-20-106 continues to specify the license renewal procedure and adds the requirement for licensed waterworks operators to comply with the CPE requirement. The language in the current subsection E, concerning licenses issued under the Board's August 27, 1992 regulations has been deleted.

The substance of Section 18 VAC 160-20-40 has been moved to Section 18 VAC 160-20-102. In Section 18 VAC 160-20-102, the fee structure remains the same. Language has been added to clarify that the date a fee is received by the Board is the date that will determine whether the fee is received timely. In addition, language is added to make clear that an additional fee of \$25 will be charged to anyone who submits a check that is dishonored by the institution on which it is drawn.

The substance of Section 18 VAC 160-20-50 has been moved to Section 18 VAC 160-20-120. In Section 18 VAC 160-20-120, a new Class VI facility has been added in order to implement the EPA Guidelines. The descriptions of the other facilities have been modified to reflect current operation practice. The new language makes clear that a licensee may lawfully operate a facility of a lower classification than the classification on his license.

The substance of Section 18 VAC 160-20-60 has been moved to Section 18 VAC 160-20-130. In Section 18 VAC 160-20-130, the descriptions have been modified to reflect current operation practice. The new language makes clear that a licensee may lawfully operate a facility of a lower classification than the classification which appears on his license.

Section 18 VAC 160-20-74 is a new section that continues the substance of repealed Sections 18 VAC 160-20-20 and 18 VAC 160-20-70 requiring an individual to hold a license pertinent to the facility to be operated and prohibits the possession of more than one classification of license in the same category by a single individual.

Section 18 VAC 160-20-76 is a new section that continues the substance of repealed Section 18 VAC 160-20-100, except for the language describing practices that do not comply with the Virginia Administrative Process Act (APA). Language is added that more accurately describes the application procedure, establishes the age of majority as an entry standard and requires disclosure of conviction and disciplinary actions. The language also requires the applicant to disclose his physical address and makes clear that receipt of an application and deposit of fees in no way indicates application approval.

Section 18 VAC 160-20-80 has been amended to simplify the language. In substance, any individual licensed in another jurisdiction that can document that he meets the experience and education requirements of the Board may take the Virginia license examination.

Section 18 VAC 160-20-85 is a new section that implements a provision of the EPA Guidelines recommending the grandparenting of operators of small water systems described as Class VI in the proposed regulations. The EPA is concerned that there are currently many competent operators who should be allowed to continue to function as operators until they can meet the new entry requirements, in order to allow a transition period.

Section 18 VAC 160-20-90 has been amended to clarify language, to reflect the suggestions of the Office of the Attorney General, by deleting "Table 1," which caused confusion, and by adding the entry requirements for the new restricted Class VI waterworks license.

Section 18 VAC 160-20-100 has been proposed for repeal as addressed above under the comments for Section 18 VAC 160-20-76.

Section 18 VAC 160-20-102 has been added and contains the substance of Section 18 VAC 160-20-40, which has been proposed for repeal, as addressed above under comments for Section 18 VAC 160-20-40. In addition, language has been added to make clear that an additional fee of \$25 will be charged to anyone who submits a check that is dishonored by the institution on which it is drawn.

Section 18 VAC 160-20-104 has been added and contains a requirement for regulants to notify the board in writing of any change in name and address, and mandates that regulants practice under the name in which their license is issued.

Section 18 VAC 160-20-106 has been added and contains the substance of deleted Section 18 VAC 160-20-30. The language continues to specify the license renewal procedure and adds the requirement for licensed waterworks operators to comply with the CPE requirement. The language in the current Section 18 VAC 160-20-30 E, concerning licenses issued under the Board's August 27, 1992 regulations, has been deleted because it is obsolete.

Section 18 VAC 160-20-109 has been added to articulate the new CPE requirement mandated by the new EPA Guidelines. The number of contact hours of CPE required varies depending on the class of license held. More hours are required for higher classes because of the more complicated nature of the higher-class facility operation. CPE is not required for license renewal for less than two years from the date of expiration, because the Board feels the effort to qualify for the examination meets the CPE requirement for the first renewal cycle. CPE subject matter is limited to those areas covered on the Board's current examination. Copies of the examination content are available from DPOR free of charge and will be posted to the DPOR web site. Courses approved by the Board to substitute for training credits or formal education are acceptable as CPE.

Section 18 VAC 160-20-110 has been repealed and its substance moved to new Section 18 VAC 160-20-140. The new language contains the provisions of the repealed section, one of which has been revised for clarity. A provision concerning criminal convictions has been added to make clear that individuals convicted of felonies and certain misdemeanors are subject to license denial, suspension or revocation. Licensees are required to notify the Board of convictions of certain felonies. Gross negligence or a continued pattern of incompetence has been added as grounds for disciplinary action.

Section 18 VAC 160-20-160 is the former "Appendix A," that contained the standards for approval of specialized training courses. The appendix has been restyled as Section 18 VAC 160-20-160 and contains the language found in the appendix with some clarifying amendments. The language specifies how the training can be substituted for the experience required for licensure and the standards the training courses must meet to be approved. The information to

be submitted by those seeking training course approval is specified. Additional provisions are included for recurring training programs, which will save some cost and effort for both providers of the training and the Board.

Issues

Please provide a statement identifying the issues associated with the final regulatory action. The term "issues" means: 1) the advantages and disadvantages to the public of implementing the new provisions; 2) the advantages and disadvantages to the agency or the Commonwealth; and 3) other pertinent matters of interest to the regulated community, government officials, and the public. If there are no disadvantages to the public or the Commonwealth, please include a sentence to that effect.

The primary advantage to the public of implementing the new regulatory provisions is the added protection to the public resulting from the additional oversight of the waterworks and wastewater works professions. Implementation of CPE provides for more competent operators, which assures the public of a potable water supply. The primary advantage to the Board and to the Commonwealth is to prevent the loss of funding provided by the EPA. The disadvantages to the public would be the added cost to license small water system operators (Class VI) and the CPE costs for all waterworks operators, which will put some upward pressure on water bills.

Statement of Changes Made Since the Proposed Stage

Please highlight any changes, other than strictly editorial changes, made to the text of the proposed regulation since its publication.

The following changes to the Proposed Regulation were made by the Board during its December 21, 2000 meeting:

18 VAC 160-20-109 F and G were amended to make clear that the language describes training that qualifies for CPE credit and does not, in any way, prohibit the individual from taking the training for his own reasons.

18 VAC 160-20-120 F and 18 VAC 160-20-130 D were amended to clarify that a Class I licensee may operate any class of facility.

18 VAC 160-20-140 was amended to clarify who was subject to the Board's disciplinary authority and the actions that may result in the Board exercising its disciplinary authority.

None of these amendments are substantive in nature or change the initial objective of the regulation revision activity first articulated in the Board's NOIRA.

Public Comment

Please summarize all public comment received during the public comment period and provide the agency response. If no public comment was received, please include a statement indicating that fact.

COMMENT SENT BY:	COMMENT	AGENCY RESPONSE
<p>Arch R. Thompson 5508 South Branch Road Fredericksburg, VA 22407-8736 Browningb80@aol.com</p>	<p>“I am deeply concerned about the reference to a requirement for continuing education credits for currently licensed operators. My employer, the U.S. Government is a cheapskate when it comes to training and in 19 years of service my employer has provided me 6 days total of training in my field. Your proposal to require continuing education in a field where pay lags that of the private sector, and on a class of professionals generally last on the training list for government bodies, places an unfair and unwarranted burden upon those of us working in this field.</p> <p>“I would submit to you that continuing education is not required of licensed operators currently working at least 1780 hours per year in an operations position. Since we are actively practicing our craft daily. Since we accordingly are applying our knowledge of microbiology, chemistry, mathematics and mechanics everyday it is highly unlikely, short of some new technology or a scientific overhaul of treatment methods that continuing education would be worth the cost, <u>most likely</u> which must be borne by the individual.</p> <p>“Accordingly, I request that, and I have not seen the proposed regulation as I write this, that any CEU program apply only to licensed operators not daily practicing their craft or those whom do less than 1780 hours per year. You police this by requiring such information on license renewal forms</p>	<p>The Board appreciates the situation that you describe and thanks you for sharing your concern and point of view.</p> <p>However, the Final Guidelines for the Certification and Recertification of the Operators of Community and Nontransient Noncommunity Public Water Systems (published by the EPA in the February 5, 1999 edition of the <i>Federal Register</i>), hereinafter referred to as the EPA Final Guidelines, mandate continuing professional education for waterworks operators. The Board’s failure to implement the EPA Final Guidelines will result in the loss of considerable federal grant funding for waterworks programs throughout the Commonwealth.</p> <p>Low cost and free training is available from a number of sources that may address your understandable concerns with the fiscal impact of the Board’s final regulations. The following organizations, among others may be able to assist with your training needs: the Virginia Rural Water Association, the Virginia Water Environment Association, the Department of Environmental Quality, the Virginia Department of Health</p>

	<p>and by following up on the information therein contained.</p> <p>“Until you can clean up and enforce strict licensing standards, putting a stop to such abuses, I respectfully request that the Agency not penalize professional operators by striking us with continuing education unit requirements because of the failing of poorly trained and unqualified “operators” who don’t deserve the title.</p> <p>We don’t need to require more of Water and Wastewater Operators than we do of other licensed professionals and, <u>because we practice our trades everyday</u>, we should get a <u>by</u> on a grandfather clause.</p>	<p>and the Virginia Section – American Waterworks Association.</p>
<p>Donald E. Addison, Jr. Chief Operator, Class I Swift Creek Water Treatment Plant Addison@co.chesterfield.va.us</p>	<p>“I am an Operator with 27 years experience holding a Virginia Class I Waterworks License. The following comments expressed on Waterworks Operator License renewal are my own views and opinions and do not necessarily reflect those of the Utilities for whom I work or any Professional Organization I am affiliated with.</p> <p>“On October 4th and 6th 2000, at the Virginia Section Plant Operations Committed Conference held in Staunton Va. I was able to attend a night session at the conference where Mr. Eugene Potter spoke on the topic of Waterworks Operator license renewal. Mr. Potter is an active member of the Department of Professional and Occupational Regulation Water and Wastewater Board and I would assume his comments at the Seminar reflect a consensus of the Board. After listening to Mr. Potter’s talk and reading the material available on your web site</p>	<p>The Board thanks you for your support.</p> <p>The final regulations require licensees to keep specific records of the continuing professional education (CPE) they have completed and to provide those records to the Board upon their request. The Board has asked the staff of the Department of Professional and Occupational Regulation to periodically obtain the evidence of CPE completion from a percentage of licensees, chosen at random for annual 7% audit of Waterworks Operators for CPE, to determine compliance. Failure to comply is grounds for disciplinary action. Should a significant percentage of licensees be found to be out of compliance, the Board may</p>

	<p>pertaining to license renewal.</p> <p>"Let me state first I am in favor of the 20 hour CPE requirement for license renewal in a two year renewal cycle. I am in concurrence with most of Part III VAC 160-20-106 and VAC 160-20-109 but have some comments for your consideration.</p> <ol style="list-style-type: none"> 1. At the conference Mr. Potter stated the requirements for accountability for training would be Honorary in nature. A simple check on the renewal application or statement included with the application that the requirements have been met! Does this mean the Board is not establishing a means of review for Operator training to assure that they have met CPE requirements? (VAC 160-20-106 renewal subsection C) 2. Mr. Potter also stated that not prior approval would be necessary for training material content. Operators can train other operators or may purchase or rent a video. Who oversees this as to content and correctness? Is it possible that an operator may think he has proper training toward CPE's only to find later that the board would not allow some training, as the approval is after the fact and not in advance? VAC 160-20-109 subsection D. <p>"An honorary system is an open invitation for abuse of the system. CPE's should be approved in advance or immediately after structured training occurs. Several Professional Organizations could assist with this. The American Water Works Association and sections within the Virginia</p>	<p>take further action.</p> <p>The Board believes the CPE documentation requirements articulated in the final regulation is adequate for professionals.</p> <p>The Board appreciates your concern for minimum CPE training material standards. However, the Board feels that the industry and the individual professional operators are capable of determining the type of training that will best serve the public's interests.</p> <p>The CPE training is limited to the content areas covered by the Board's examination. Establishing more specific CPE training standards may result in licensees expending limited fiscal resources to meet a Board regulation mandate and result in the most urgent training needs of a particular facility being unmet.</p>
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	<p>Department of Health already have in place the means to facilitate pre-approval for CPE's. Minimum requirements for approval of CPE's already exist within the proposed regulations for the License renewal process. VAC 160-20-109 subsection D.</p> <p>3. Half of Virginia's Waterworks Operators could meet the CPE requirements due to ongoing training such as OSHA regulations. I infer from this that approximately 3,000 Operators could garner the 20 CPE hours necessary and never attend a course pertaining to the actual treatment of water. (Comment taken from Estimated economic impact. Pg. 3 Board for Waterworks and Wastewater Works Operators Website (Proposed Regulations)).</p> <p>"Minimum standards for type of training should be set. I agree that Federally mandated OSHA classes should give credit towards CPE. These should account for only a percentage of the overall training. 40% of the training or 4 CPE per year should be directly related to water treatment. Safety, Maintenance and Laboratory could be included in the other 60% of the CPE requirement. This would insure an opportunity for Operators to be given training or information updates and exposes them to new technologies and treatment techniques that could assist them in the field of water treatment. The primary focus should be on water treatment practices and regulatory compliance.</p> <p>"If the intent of the renewal regulation is to help ensure that customers of any public water system be provided with an</p>	
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	<p>adequate supply of safe, potable drinking water and to inspire consumer confidence in their drinking water and those who make it. Then the seriousness and importance of the Water Treatment Profession warrants serious and detailed continuing education for it’s practitioners.”</p>	
<p>Mike Painter Broncomike@sprynet.com</p>	<p>“I wish to comment on the proposed regulation (18 VAC 160-20-10 – 18 VA 160-20-160.</p> <p>“I believe continuing education should be required...I also think it should not be limited to water. I think wastewater should also be included...I am an operator and see a decided lack of technical skill in the field... I also think there should be a requirement that all plants have properly licensed operators...I see many examples of plants that read the rules as meaning only one person at a facility need be licensed depending on size of plant...As a result many plants have untrained and unknowledgeable persons working...making adjustments...decisions etc. while “under” the direction of a licensed operator while in reality the licensed person may not even be at the plant. I think the rules should be clearer and that no on at a facility should be allowed operate a plant if the operator in charge is not there unless he or she is properly license...Clarify the rules!!!”</p>	<p>The Board is implementing the mandate of the EPA Final Guidelines, which do not require CPE for wastewater works operators.</p> <p>To extend regulation through a CPE requirement for wastewater works operators without a federal mandate and without evidence of current harm to the public health, safety and welfare would not comport with the policy expressed in § 54.1-100 of the Code of Virginia and the policy of the Gilmore Administration.</p>
<p>sshelton@erols.com</p>	<p>“Dear sirs, I am a wastewater operator and have been for the last 23 years. I am opposed to recertification for wastewater operators for the plain simple fact that if a person holds his job because of a license he will be unemployed if he does not pass the recertification. This is the most unjust</p>	<p>Neither the proposed regulation nor the final regulation requires recertification of any current licensee. Rather, waterworks licensees are required to take specific amounts of CPE.</p>

	<p>proposal to come from a organization that does not understand that the only reason you can rule and regulate is because of the lowly operators that man the facilities you inspect. You send people out to inspect and if they did not have a check sheet they would be completely lost. Do you require that a inspector knows anything about the treatment process? Has the person inspecting ever been in responsible charge of a facility? Where is the enforcement during the a.m. hours or high flows? Where is enforcement when the equipment goes down? Why instead of changing current testing would not you structure the certification exam to prepare a operator to run a treatment facility? Most operators do not have any mechanical ability but are required to maintain equipment at the plants. How can you do this if you can't tell the difference between a phillips screwdriver and a regular? The D.E.Q. has become a bunch of lose cannons that apply rules and regulations as the as they understand them. I have yet to have a inspector at my facility that knows anything about actual operation of a plant. Does this sound normal to you? Biology degree and no experience make for a lousy inspector. How about retraining the inspectors? Operators need support, not to have there career put on line everytime there is a inspection. What do you tell a person who has never violated and has a excellent work history when he fails a recertification? The operators are the backbone of your organization, why do you insist on treating them like a bunch of idiots. Also I had sent for a copy of the proposed changes and was dissapointed to see the twisted way you are trying to bring this about. I'm not sure what legal grounds I have for</p>	<p>Concerns with the performance of DEQ staff should be directed to DEQ. A copy of this document will be forwarded to the Director of the Department of Environmental Quality.</p>
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	<p>holding my license but rest assured I will talk with my attorney and find out my recourse if ever I am asked to recertify. Just because someone is not good on a test does not mean they are not able to perform the job. In short recertification NO more support for operators YES. Sincerly S.Shelton</p>	
<p>D. H. Wood, President John Deely, Chairman Water Committee Egypt Bend Lot Owners Association Inc. Post Office Box 674 Luray, Virginia 22835</p>	<p>We operate a small water system in a private community that serves seventy houses.</p> <p>We have been operating for thirty plus years.</p> <p>We have complied with all of the regulations and requirements of the Virginia Department of Health.</p> <p>During this time we have maintained a good relationship with the Engineering Field Office and the Virginia Department of Health. We have no problems.</p> <p>The Board can see no reason for adding a licensed operator to this operation other than adding more beauracy to our system.</p> <p>This operation is performed by volunteers and we agree quite pleased with its performance.</p> <p>We realize that every system is not as fortunate as we are, and that some may need guidance in bringing their system up to standards. So our suggestion would be to concentrate on those that may need help and not impose on systems that are working well.</p>	<p>The situation the Board finds itself in is one of having to implement EPA Final Guidelines in order to preserve significant federal grant funding for waterworks programs. The Board has kept the limited resources of organizations such as yours in mind and has developed its regulations to implement the EPA Final Guidelines with as little adverse impact on the regulated industry as possible.</p>
<p>Cynthia A. Wood Louis A. Johnson</p>	<p>“We have been made aware of a proposal to require all owners and</p>	<p>The situation the Board finds itself in is one of having to</p>

<p>North 340 Mobile Home Park Post Office Box 509 Elkton, Virginia 22827</p>	<p>operators of waterworks operations to have licensed operators. We believe that a requirement such as this is unnecessary, burdensome, cumbersome and expensive for owners and operators of small waterworks operations such as ours.</p> <p>“Our waterworks operation consists of only one well, which serves a maximum of thirty-two residences (mobile homes). The water is sampled monthly and currently requires no type of treatment whatsoever. We don’t think that a system such as this warrants a licensed operator, and we further request that the DPOR reconsider its position and abandon this proposal.”</p>	<p>implement EPA Final Guidelines in order to preserve significant federal grant funding for waterworks programs. The Board has kept the limited resources of organizations such as yours in mind and has developed its regulations to implement the EPA Final Guidelines with as little adverse impact on the regulated industry as possible.</p>
<p>Beth G. Shenk Redland U.M. Church 1734 N. Sleepy Creek Road Whitacre, Virginia 22625 (540) 888-4396</p>	<p>“I would like to respond to the proposal to require all waterworks to have licensed operators. This proposal is especially burdensome to small waterworks systems that rely on competent volunteers to handle the water program. In my instance I am the designated contact person for our church. We strive to meet all of the required regulations that the VDH imposes on us. However this additional requirement will tax us too much. We are not able to afford or devote a person to be a licensed operator. This is an unnecessary regulation that the small waterworks programs will have financial difficulty to comply with. Our church has a daycare center therefore our water comes under the waterworks program guidelines. This program is already burdensome enough for our church.</p> <p>“I feel the regulations that are currently approved address all the necessary items for a small waterworks program. To devote a person to be a licensed operator</p>	<p>The situation the Board finds itself in is one of having to implement EPA Final Guidelines in order to preserve significant federal grant funding for waterworks programs. The Board has kept the limited resources of organizations such as yours in mind and has developed it regulations to implement the EPA Final Guidelines with as little adverse impact on the regulated industry as possible.</p>

	<p>for our system which services only our church and daycare center is overly burdensome in time and money. The VDH currently is doing a good job of monitoring our system as needed and we are providing VDH timely samples at their request. This increase in regulation is not cost effective for small water programs such as ours. Please reconsider this proposed change.”</p>	
<p>Robert W. Hicks, Acting Director Office of Water Programs Department of Health Post Office Box 2448 Richmond, Virginia 23218 www.vdh.state.va.us</p>	<ol style="list-style-type: none"> 1. 18 VAC 16-20-120. Waterworks. Part A.1. <ol style="list-style-type: none"> a. In anticipation of the new Class VI waterworks operator licensee category and at the request of the Department of Planning and Budget, the Virginia Department of Health estimated the number of waterworks in Virginia that would require a Class VI licensee and that would apply for the “grandparenting” provision. In our estimate, we included those waterworks serving fewer than 400 persons and disinfecting with hypochlorination. However, the proposed regulations do not cover waterworks meeting these criteria. Our revised <i>Waterworks Regulations</i> (currently being drafted) will require waterworks with less than 400 population and hypochlorinating to be classified as a Class VI waterworks. (We presently consider them <i>unclassified</i> waterworks not required to have licensed operators.) If a license class higher than VI is required, then approximately 25% to 50% of the waterworks that we thought would apply for “grandparent” status will instead have to obtain 	<p>The Board thanks the Department of Health for its specific comments.</p> <p>Comments 1, 2, 3, 5, 6 and 7 are responded to as follows: The regulatory agency that issues the operating permits for waterworks and wastewater works facilities assigns the classification of the facility. The facility must employ a licensed operator holding the class of license described in the permit to be in compliance. A waterworks providing no treatment and serving fewer than 400 persons (18 VAC 160-20-120 A 1) that has been classified as a Class IV facility by the Department of Health, must be operated by a Class IV operator (18 VAC 160-20-120 C 2). The Board feels its final regulations implement this procedure and address Mr. Hicks’ concerns.</p> <p>DPOR staff is working with ABC to adapt their examination to the specific requirement of the Virginia Class VI waterworks operator as suggested by the EPA mandate. Class VI applicants</p>

	<p>a licensee immediately upon the effective date of the proposed change to the VDH <i>Waterworks Regulations</i>. Furthermore, the ABC examination for the Class VI license, which is designed for operators of small systems that hypochlorinate, provides further basis for including these waterworks in the Class VI category. Therefore, we request that a minimum Class VI licensee be required for waterworks having a population less than 400 and employing hypochlorination for disinfection.</p> <p>b. The USEPA’s Lead and Copper Rule resulted in many small waterworks in Virginia having to install corrosion control treatment. A majority of these waterworks are utilizing soda ash solution feeders or calcite contactors for pH and alkalinity adjustment and/or a phosphate-based corrosion inhibitor via solution feed. Operation of these types of treatment units is no more complex than operating a hypochlorinator. In fact, many waterworks utilizing some of the popular blended phosphate inhibitors are feeding directly from the inhibitor container (100%), thereby avoiding the need to mix solutions. This practice is simpler than the typical hypochlorinator installation, which usually requires mixing solutions.</p> <p>The proposed DPOR regulations would require a minimum Class IV licensee to operate a waterworks employing any</p>	<p>will be tested only on the knowledge, skill and ability needed for <u>Virginia</u> Class VI operators.</p> <p>The definition of “waterworks” in the proposed regulations will remain unchanged in the final regulations.</p>
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	<p>corrosion control. The revised <i>Waterworks Regulations</i> currently being drafted will require waterworks serving less than 400 persons and employing simple corrosion control methods mentioned in the preceding paragraph to be classified as Class VI waterworks. (We presently consider them <i>unclassified</i> waterworks not required to have licensed operators.) There waterworks with simple corrosion control treatment were also included in our estimate of the number of waterworks in Virginia that would require a Class VI licensee and that would apply for the “grandparenting” provision. They represent approximately 10% of the total number of waterworks that we estimated would apply for “grandparent” status. If a licensee higher than Class VI is required for these types of waterworks, then these waterworks will have to obtain a licensee immediately upon the effective date of the change to the <i>Waterworks Regulations</i>. Therefore, we request that a minimum Class VI licensee be required for waterworks having a population less than 400 and employing corrosion control with calcite contactors and/or solution fee except with caustic soda.</p> <p>Based on comments a. and b. above, we request that 18 VAC 160-20-120. Waterworks. Part A.1 be revised to read “waterworks <i>serving fewer than 400 persons (i) provide no treatment; or (ii) employ one or more of the following: (a) disinfection with hypochlorination, or (b) corrosion control with calcite contactors and/or solution feed except with caustic soda.</i>”</p>	<p>4. A facility that meets either the population or the capacity standard is a Class IV or III facility. One standard is not “greater” than the other. Adding the phrase would lead to confusion.</p>
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	<p>2. 18 VAC 160-20-120. Waterworks. Part B.1. For the reasons mentioned in 1.b above, we request that the definition of a Class V waterworks in part B.1 of this section be amended to include an item (iii) reading <i>“corrosion control with calcite contactors and/or solution feed except with caustic soda.”</i></p> <p>3. 18 VAC 160-20-120. Waterworks. Part C.1. We request that item (ii) “corrosion control”, be amended to read <i>“corrosion control by caustic soda and non-solution feed methods, except calcite contactors.”</i> Due to obvious safety concerns of handling caustic soda, we do not think that this method of corrosion control is appropriate for a Class VI or V licensee and recommend that a Class IV licensee be required. (There are very few small waterworks in Virginia that utilize caustic soda for corrosion control.)</p> <p>4. 18 VAC 160-20-120. Waterworks. Part C.1 and D.1. In these two sections, we recommend that the phrase <i>“whichever is greater”</i> be inserted after or having a design hydraulic capacity of less than 0.5 MGD,” to clarify that the waterworks may not simply meet <i>either</i> the population cutoff <i>or</i> the hydraulic limit.</p> <p>5. 18 VAC 160-20-120. Waterworks. Part C.1. There is a typo for the item number (iv) preceding “activated carbon contactors”; it should be (ix).</p> <p>6. 18 VAC 160-20-120. Waterworks.</p>	<p>8. Neither phrase adds to clarity. Deletion of “whichever falls within the range” will leave a sentence that is clear and easy to understand. A facility that falls within either one of the ranges is a Class II facility.</p> <p>9. The Board deleted the phrase “listed in subsection A through E of this section” to clarify that a Class I licensee may lawfully operate any classification of facility. Class I facility is defined by the Department of Health.</p> <p>10. 18 VAC 160-20-130 D was amended in the same manner as discussed in item 9 above.</p>
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	<p>Part C.1. We request that an item (x) be added to Part C.1. that would read <i>“fluoridation with a saturator.”</i> Our reason for this is that this method of fluoridation should be differentiated from other methods for two reasons. First, it does not have the safety risk that acid feed has. Secondly, it does not require the operator to perform dosage and solution makeup calculations. Our present policy is to require a minimum Class IV operator for fluoride saturator process and revisions to the <i>Waterworks Regulations</i> will include this provision.</p> <p>7. 18 VAC 16-20-120. Waterworks. Part D.4. For the reasons mentioned in comment No.6 above, we request that part D.4 be revised to read <i>“fluoride with other than a saturator.”</i></p> <p>8. 18 VAC 160-20-120. Waterworks. Part E.1. We request that the phrase <i>“whichever falls with the range”</i> be changed to <i>“whichever range applies”</i>. We think that this expresses the purpose of the ranges more clearly.</p> <p>9. 18 VAC 160-20-120. Waterworks. Part F. We recommend that this section be amended to have the same outline as Part E, with the appropriate population and hydraulic capacity limits specific to Class I waterworks in paragraphs 1 and 2. The proposed</p>	
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	<p>wording does not mention or describe Class I waterworks. Rather, it leaves it for the reader to infer that a Class I licensee is required to operate, for example, a waterworks serving 50, 000 or more persons or with a hydraulic capacity of 5.0 MGD and above. We think the Class I waterworks licensee requirements should be clearly stated one by one as they are for the other classes.</p> <p>10. 18 VAC 160-20-130. Wastewater works. Part D. We did not review this section of the regulations; however, we do offer the same comment for this section as comment No. 9 above.</p>	
<p>Gerald Lee Julian, Jr. Waterworks Operator Class 1 1901-000239 gjulian@city.norfolk.va.us</p>	<p>“The first comment I would like to make on the proposed changes are concerning the section Department of Planning and Budget’s Economic Impact Analysis. In this Section under Estimated economic impact, speaks about “ongoing training” being available through Virginia Department of Health and The Virginia Rural Water Association. I would also think that the ongoing programs of the Virginia Section of the American Water Works Association should be mentioned. They have sponsored training/education events specifically for Operators and should be mentioned for general information for those reading this document.</p> <p>My second comment is centered around the concept of Re-engineering and 18 VAC 160-20-90. Licensure by experience and examination. Under Section A, item #4.</p>	<p>The Economic Impact Analysis is prepared by the Department of Planning and Budget and the Board has no authority to make the suggested amendment.</p> <p>Revising the regulation will not change the role of maintenance personnel in any given facility. Maintenance personnel may be assigned by facility management to duties giving them experience that can help them qualify for a license. Any experience that meets the standards for an operator in training established</p>

	<p>4. Experience solely limited to the operation and maintenance of wastewater collection system operation and maintenance systems and water distribution systems, laboratory work, plant maintenance, and other non-operating duties shall not be counted as experience as an operator-in-training.</p> <p>I would like for you to consider the expanding role of maintenance personnel and their understanding of plant operations as a basis for certification experience at the entry levels of operator certification or at the, minimum operator-in-training level. This would give Utilities a chance to become competitive by boarding the skills of existing plant personnel.</p> <p>I would appreciate any consideration the Board would have concerning these matters.</p>	<p>by the regulations may count toward the individual's qualification for a license.</p>
<p>Wise & Associates, Consulting Engineers Francis J. Nadeau 11 Ridgetop Drive Weyers Cave, Virginia 24486 (540) 234-8474 (540) 234-8704 (fax) WiseEngin@aol.com</p>	<p>“Continuing Education for operators is an area of continuing discussion and disagreement. While I am a licensed (Class III) Water and Wastewater Operator, I work for a consulting engineer and not in a treatment facility. I do see numerous systems and work closely with the operators of both water and wastewater treatment facilities in design, start-up and developing Operations and Maintenance Manuals.</p> <p>“There is a need for continuing education in our work, however most operators will only see one or two upgrades of their facilities over their entire working years. Our treatment facilities are not volatile systems but static and the procedures used in their operations are the same as have been used for decades. Most small facilities</p>	<p>The situation the Board finds itself in is one of having to implement EPA Final Guidelines in order to preserve significant federal grant funding for waterworks programs. The Board has kept the limited resources of organizations such as yours in mind and has developed its regulations to implement the EPA Final Guidelines with as little adverse impact on the regulated industry as possible.</p>

	<p>are undermanned to the extent that they are barely operating within the required parameters. Spending the time required to obtain the necessary C.E.U.'s will put a severe hardship on the municipalities and result in things not being done while the operator is gone. By requiring numerous hours of absence to attend training sessions to learn about procedures and equipment <u>they will never see or use</u> is wasteful.</p> <p>“Most of the operators I meet are conscientious and try to ensure that they do everything possible to protect the health and well being of the public. Requiring C.E.U. 's will not change that outlook.”</p>	
<p>Gary Cunningham 73 Wagon Lane New Market, Virginia 22844-3230</p>	<p>“Though I am licensed I don't see why all waterworks should be licensed, (well with chlorinator) though a system of educating and passing on advice and information would be good.”</p>	<p>The situation the Board finds itself in is one of having to implement EPA Final Guidelines in order to preserve significant federal grant funding for waterworks programs. The Board has kept the limited resources of organizations such as yours in mind and has developed its regulations to implement the EPA Final Guidelines with as little adverse impact on the regulated industry as possible.</p>
<p>Valley View, Inc. Grover M. Holler, Jr., President Route 3, Box 371 18979 Senedo Road Edinburg, Virginia 22824 (703) 984-4164 (703) 984-4269</p>	<p>“Recently, I received a memorandum from the Department of Health Office of Water Programs regarding the proposed changes to the Department of Professional and Occupational Regulation (DPOR) requiring small waterworks owners and operators to be licensed. It is our understanding that the Environmental Protection Agency is forcing the State of Virginia to require this licensure of small waterworks.</p>	<p>The situation the Board finds itself in is one of having to implement EPA Final Guidelines in order to preserve significant federal grant funding for waterworks programs. The Board has kept the limited resources of organizations such as yours in mind and has developed it regulations to implement the EPA Final Guidelines with as</p>

	<p>“I feel this is placing a heavy financial burden on small waterworks companies such as Valley View, Inc. with only eighteen (18) customers. Existing regulations have forced small water companies to sell out because of the financial burden and increased paper work. Prior to this recent regulation small waterworks were exempt from licensure.</p> <p>“This regulation requiring the licensure of small waterworks should be rescinded or small family businesses will become a thing of the past.</p> <p>“Valley View as well as other small water companies in the State of Virginia needs your help in seeing that this regulation is rescinded.”</p>	<p>little adverse impact on the regulated industry as possible.</p>
<p>Virginia’s Drinking Water Peer Review Program Larry Land, CAE Program Administrator 1001 E. Broad St. SU LL 20 Richmond, Virginia 23219-1928 (804) 788-6652 (804) 788-0083 (804) 343-2504 Peer.Review@vaco.org</p>	<p>“The Virginia Peer Review Program is a volunteer-based endeavor created to assist small and very small waterworks improve water quality and operation-efficiency. Many of the volunteers are licensed waterworks operators. Assistance will require a protocol that relies upon communications skill, fact-finding, evaluation, and identification of corrective actions. Dependent on the complexity of the program, the protocol may include additional knowledge, skills and abilities. These may include operator instruction, troubleshooting, coordination with other volunteers and organizations (such as the state and local Health Departments, consultants, equipment vendors, contractors, funding agencies, and professional associations), research of regulations and available technologies, and application of the principles of various treatment processes.</p> <p>“In commenting on the proposed</p>	<p>The Board thanks Mr. Land for his suggestion and has given it very serious consideration. While no change to the final regulation is being made in response to Mr. Land’s comment, his suggestion is being turned over to the Board’s Training and Outreach Committee for evaluation.</p>

	<p>changes to the licensure regulations, we specifically would like to address the new requirement for Continuing Professional Education (CPE). It is our understanding that the intent of the federal operator certification guidelines was to professionally develop waterworks operators and not stagnate within the profession. We petition the Board to consider that the actual time spent in performing peer review be considered professional development. Time spent in peer review volunteerism will soon be in addition to time spent for continuing education (effective with the new regulations). Time spent in peer review evaluation and assistance should be considered meeting the CPE requirement on a one-for-one CPE contact hour basis. This is not inconsistent with many certifying organizations that allow time spent instructing to be substituted for education. These organizations realize that mastery of a subject is far greater when instructing than by passively being the recipient.”</p>	
<p>David F. Van Gelder Chief of Operations and Maintenance Hanover County Department of Public Utilities Post Office Box 470 Hanover, Virginia 23069-0470 (W) 804-537-6235 (FX) 804-537-6245 www.co.hanover.va.us</p>	<p>I am currently the Chief of Operations and Maintenance for the Department of Public Utilities in Hanover County. I would like to offer the following comments regarding the pending water/wastewater regulations:</p> <p>1. Reciprocity (Part II): Provisions allowing for reciprocity should NOT be removed from the regulations. Virginia should allow qualified individuals from other states obtain an equivalent license in Virginia without an examination requirement. This clause hinders an organization’s ability to attract qualified operators to our State. I aware of cases where, under the current practice (not VAC) of not allowing reciprocity,</p>	<p>1. The Board feels the best means of protecting the public is to require all applicants pass the examination for the class in which they seek licensure. In the past the Board has tried to compare Virginia’s standards to the standards of other states to determine which Virginia class was equivalent to the other state’s class. Virginia</p>

	<p>potential employees have not relocated to Virginia because it does not allow for reciprocity. Most municipalities are having a great deal of difficulty hiring qualified operators because of the tight labor pool. The code modifications as written make this situation worse. In addition, disallowing reciprocity is not consistent with other licensing practices in the State of Virginia where reciprocity is allowed.</p> <p>2. Class I operators(Part IV): The definition is unclear. It appears that there is no difference between a Class I operator or a Class II operator since the definition of a Class I operator does not include any additional types of treatmentworks.</p> <p>3. Wastewater operators should be required to meet the same CPE requirements that waterworks operators are required to meet.</p>	<p>would need a formal agreement with other states. This process was so burdensome that the Board decided the best way to establish minimum competence in each class was through its examination process.</p> <p>2. The Board deleted the phrase “listed in subsection A through E of this section” to clarify that a Class I licensee may lawfully operate any classification of facility.</p> <p>3. The objective of these amendments to the Board’s regulations is to implement the EPA Final Guidelines for waterworks operators. Requiring CPE for wastewater works operators without a federal mandate or evidence of current public harm that would be reduced by CPE for wastewater works operators would not comport with the policy expressed in § 54.1-100 of the Code of Virginia and the policy of the Gilmore Administration.</p>
<p>Joseph D. Hutton Jr 193 Market Street Marion, Virginia 24354 joe.hutton@netva.com</p>	<p>My first section is on Training: The proposed regulations are for Class 1,2, &3- these operators would need 20 hours within their 2-yr. renewal cycle. <u>My view is that these hours should be excluding any hours that are for Safety Training or other training that is Already mandated by other organizations. These 20 hours should be focused toward operations knowledge training that operators are not getting now.</u></p>	<p>The Board will carefully monitor the CPE completed by its regulants to evaluate its effectiveness in protecting the public. At the end of the first CPE cycle, the Board will evaluate the results and consider whether amendments to the regulation are in order. An annual audit will address</p>

	<p><u>This would allow for all operators to be exposed to the latest technology and changes that happening in this field. If the regulations are left like they are then operators will not be getting any new training only the Safety training that is mandated by OSHA that every operator needs to be getting at the present time.</u></p> <p>My second is on training courses/programs: <u>The regulations need to say that no course can be repeated unless that course has been substantially changed from the previous version. This would prevent anyone from just taking some course and then just keep taking it because they already have the test and answers to all the questions. This is not training this is someone trying to cut cost and cheat themselves. This will not satisfy the whole concept of operator’s number 1 job of providing the most safe and aesthetic water possible.</u></p> <p>My third section is on Operator –in-training: <u>The regulations need to make all new employees take a certification for this title. This would allow for that particular operator-in-training to be held accountable for their actions not the operator that has already been certified. This will also be the starting point for time and experience for an operator not just when they are hired. The reason for this would allow time gap for a new employee that has no knowledge or a weaker understanding for whatever reason, to become familiar with the</u></p>	<p>your concerns.</p> <p>An operator-in-training is one who is learning and must be effectively supervised by a qualified individual. That qualified individual is and rightly should be responsible for the actions and performance of the operator-in-training. No regulation amendment will be made.</p> <p>The objective of the regulatory program is to create a minimum standard for licensure that is adequate to</p>
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	<p><u>profession. The idea here is to eventually make this profession a professional classification. If a operator passes a Class license that is for operations of a treatment plant with all parts for example a plant with disinfection, filtration, involved then that person would be a operator. This is for new employees that we are talking about.</u></p> <p>My fourth section is on CPE requirements for college level work: <u>The regulations need to be focused on some kind of professional endorsement like the engineering field –P.E. title for the Operators that have the Highest license level now and College Education’s these people need to have the option of an advanced license instead of the same level as someone with a GED or High School Education. The water and wastewater operator with a Class 1 license should be able to be called a P.O. – professional operator. The field is advanced way beyond the current and even these proposed regulations are for attracting four year and above college graduates to start a career in these fields. The other thing is the pay but if the regulations were a bit more stringent and focused toward attracting these college graduates then the salaries would be better because not just anyone could become an operator!!!!!!!!!!!!!!!!!!!!</u></p> <p>My fifth section is on Supervisory Personnel: <u>This level of employment needs some direction so that people are not just put into a manager’s position because they have been there for x amount of years. If a person is going</u></p>	<p>protect the public health, safety and welfare. Attracting college graduates or “professional operators” is in no way hindered by final regulations and is a concern for facilities hiring staff, not for the Board’s regulations.</p> <p>The objective of the regulatory program is to create a minimum standard for licensure that is adequate to protect the public health, safety and welfare. Each facility must make its own hiring and promotion decisions. Setting standards for those decisions is beyond the Board’s statutory authority.</p> <p>Knowledge of misrepresentations on license applications should be reported to DPOR staff for investigation and appropriate action by the Board or the criminal court. The Board does not feel the suggested amendments would</p>
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	<p><u>to be the manager of a facility then that person should be required to hold the Class 1 license with the P.O. endorsement. This will start to give the industry some professionalism that it is in need. This will also make advanced technologies more understandable because people with these higher educations and experience will know what is going on when the EPA sends new regulations on operations techniques. For example: log removal of Cryptosporidium and Giardia to statistically understand the purpose for collecting this data and understand what your looking at the individual would needed to know statistics and microbiology something that is offered to a college level person. This is why the field needs this P.O. endorsement and for any/all supervisors to hold this endorsement to get the qualified people in the leadership positions.</u></p> <p>My sixth section is on Dual License: <u>The regulations should say something to the effect that for a operator to hold license in both fields then that operator needs to certify and be signed by someone that is not involved in the operation or employer that this operator is employed at this eliminates the falsifying possibilities that is going on. These operators should also have to work in the respective field for six months out of the year not just so many hours. The hours of CPE requirements should also be for each field, class 1,2, & 3=20hours in each field. The supervisory positions should only be allowed to hold the license in the field that they are in and again with the advanced level of license with the</u></p>	<p>add to the protection of the public health, safety and welfare and questions that it has the statutory authority to implement it.</p> <p>The Board has no authority to direct the activities of the Virginia Department of Health or the Virginia Department of Environmental Quality. A copy of this comment is being sent to the Commissioner of the Virginia Department of Health and Director of the Virginia Department of Environmental Quality for their review.</p>
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	<p><u>P.O.- Professional Operator certification endorsement.</u></p> <p>My seventh section is on QA/QC of the proposed regulations:</p> <p><u>There needs to be a License Training Liaison that would work out of each Virginia Department of Health /Department of Environmental Quality field office that could facilitate/regulate for each of the districts in the state. This person could implement training from various sources, this would allow a way to regulate the training as well as make it available to several operations employees not just a site that has more funds available to implement their own training programs. This would also allow a communication between the inspector/ engineer for a particular site to include on the operations inspections that done a facilities. This position needs to be someone familiar with operations, safety, training and not an engineer. Training managers would be better for this type of position than an engineer who is more toward the design aspects of the facilities and not the operator’s abilities. This person would also be able to approve all training syllabuses for each of districts and they should also be meeting with the other districts License Training Liaison to ensure that statewide programs are the same opportunities for all operators. This would a great step to offer a state program of training offerings that would help put the State of Virginia operators ranking at the top- the best of the best.</u></p>	
Blacksburg Christiansburg	“My comments are in response to both	The Economic Impact

<p>VPI Water Authority Gerald W. Higgins, PE Post Office Box 10006 Blacksburg, Virginia 24062 (540) 639-2575 (540) 639-0229 (fax) h204u@usit.net</p>	<p>the published proposed regulations, as well as in response to a presentation made by present Virginia Board member, Gene Potter, at a recent AWWA meeting. Specifically, I am concerned with statements that are contained on page 3 of the published proposed regulation. It states, “At present about half of Virginia’s waterworks operators could meet the CPE requirements due to on-going training, such as that mandated by OSHA regulations...” The document goes on to state, “It also appears the time spent with an equipment vendor who shows an operator how to use equipment may count toward CPE hours.” I find these statements to be contrary to the intent and even the wording devised by the EPA committee on which I served.</p> <p>On page 1 of the prelude to the proposed regulations your document states, “The public health objectives of the guidelines and proposed regulations are to insure that: customers of any public water system be provided with an adequate supply of safe, potable drinking water; consumers are confident that their water is safe to drink; public water system operators are trained and certified and that they have knowledge and understanding of the public health reasons for drinking water standards.” This statement is certainly in keeping with the intent of EPA and Congress as well as the committee that EPA set up to devise these guidelines for operator certification. To me it does not follow that an operator receiving training under OSHA regulations having to do with such things, as <i>firefighting</i> for instance should be counted towards meeting those objectives I’ve just quoted. The regulations should make it clear that any</p>	<p>Analysis is prepared by the Department of Planning and Budget and the Board has no authority to make the suggested amendment.</p> <p>The “prelude” is the statement of basis, purpose, substance and issues prepared to describe certain aspects of the proposed regulation. It is not a part of the regulation. Amending it will make no change in the regulation itself.</p> <p>The Board will evaluate the CPE completed by its regulants and determine if amendments to its regulation are appropriate to assure the public protection.</p>
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	<p>training that is going to be counted as CPE credit should be training regarding drinking water treatment and not miscellaneous on the job training.</p> <p>“On page 4 of the document, which is still part of the prelude to the actual regulations, your document states, “Since it appears that time spent with an equipment vendor who shows an operator how to use purchased equipment may count towards CPE hours...” I am particularly disturbed that this interpretation might be allowed to stand. If the board has determined that this is a valid means of training in order to earn CPEs, I believe that any owner or supervisor who wishes to keep from having to send operators to appropriate training (there are many such owners and supervisors at this time) will find this to be an easy way out. I believe that this one item has the potential to completely gut this proposed regulation and thereby nullify the intent of EPA and Congress.</p> <p>“Please reconsider this rather loose interpretation of the manner in which to earn CPEs. It is not farfetched under the above mentioned interpretation that two people standing in the doorway of a water treatment plant discussing OSHA regulations unrelated to drinking water could hand each other CPE credits. This was certainly not the intention of this legislation.</p> <p>“One other suggestion I have, is that on page 3 where you make mention of training provided by the Health Department as well as the Virginia Rural Water Association, I ask that you make mention of the American Waterworks Association which also provides numerous such training</p>	
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<p>Lambert’s Mobile Villa William C. Lambert, Owner Post Office Box 453 Woodstock, Virginia 22664</p>	<p>opportunities.” “Since I have a mobile home park, consisting of forty three lots on seventeen 75 acres, I don’t consider that I’m in the water business. We do not have our tenant water lines metered, nor do we do any billings for water. Therefore, I hereby claim exemption from any need of an license water work operator.”</p>	<p>The situation the Board finds itself in is one of having to implement EPA Final Guidelines in order to preserve significant federal grant funding for waterworks programs. The Board has kept the limited resources of organizations such as yours in mind and has developed its regulations to implement the EPA Final Guidelines with as little adverse impact on the regulated industry as possible.</p>
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Detail of Changes

Please detail any changes, other than strictly editorial changes, that are being proposed. Please detail new substantive provisions, all substantive changes to existing sections, or both where appropriate. This statement should provide a section-by-section description - or crosswalk - of changes implemented by the proposed regulatory action. Include citations to the specific sections of an existing regulation being amended and explain the consequences of the changes.

Section 18 VAC 160-20-10 has been amended to add, delete or modify the definitions of terms used throughout the regulation document.

The definition of "contact hour" has been added to the exact amount of time an individual must spend in a structured training activity to earn one hour of continuing professional education.

The definition of "continuing professional education (CPE)" has been added to implement the continuing education standards mandated by the new federal guidelines.

The definition of "department" has been added to replace the term "Virginia Department of Professional and Occupational Regulation" in the body of the regulations. The document has become easier to read as a result.

The definition of "experience" has been added to specify the nature of the occupation-related work that may be considered by the Board in determining eligibility or other decisions under the proposed regulations.

The definition of "licensed operator" has been added to define the classification appropriate for the operator of a waterworks or wastewater works.

The definition of "licensee" has been added to specify the nature of the license that is required in order to operate specific facilities in compliance with the proposed regulations.

The definition of "operate" has been added to clarify that the term only applies to an individual (rather than a firm) who holds a valid (rather than an expired) license.

The definition of "operating staff" has been added to clarify which individuals the regulations will view as performing functions requiring a license.

The definition of "person" has been deleted to eliminate confusion. The deleted definition included individuals and all forms of business organization. Use of the term "person" in the regulations gives the impression that firms as well as individuals may apply for a license. The same definition remains in the enabling statute. However, the phrasing in the enabling statute makes clear that the Board's authority is limited to individuals. Throughout the proposed regulations, the term "person" has been replaced with the term "individual." A bill has been drafted to revise the definition in the enabling statute.

The definition of "renewal" has been added to give specificity to the term as used in the proposed regulation document.

The definition of "structured training activity" has been added to specify the activities that qualify for CPE. "Structured training activity" is cited in the CPE definition to describe activities that maintain and increase licensee competence.

The definition of "waterworks" has been amended to include the substance of the EPA Guidelines' definitions of "community water system (CWS)" and "nontransient noncommunity (NTNC) water system." The current definition does not include the small size facilities addressed in the EPA CWS and NTNC definitions. The amendment is necessary to implement the EPA Guidelines. The definition of a "waterworks" in the enabling legislation (Section 54.1-2300 of the Code of Virginia) provides the Board with the authority to certify these facilities as waterworks facilities.

Sections 18 VAC 160-20-20, 18 VAC 160-20-30, 18 VAC 160-20-40, 18 VAC 160-20-50, 18 VAC 160-20-60, 18 VAC 160-20-70, and 18 VAC 160-20-100 are proposed for repeal in their entirety.

The substance of Sections 18 VAC 160-20-20 and Section 18 VAC 160-20-70 has been moved to 18 VAC 160-20-74. The language now found in 18 VAC 160-20-74 continues to require an operator to apply for and hold a valid license in the class and category of the facility operated. Language has been added to void a lower classification of license when a higher classification authorizes practice in all lower classifications. The new language simplifies the regulatory program for licensees and for DPOR.

The substance of Section 18 VAC 160-20-30 has been moved to Section 18 VAC 160-20-106. The language now found in Section 18 VAC 160-20-106 continues to specify the license renewal procedure and adds the requirement for licensed waterworks operators to comply with the CPE

requirement. The language in the current subsection E, concerning licenses issued under the Board's August 27, 1992 regulations has been deleted.

The substance of Section 18 VAC 160-20-40 has been moved to Section 18 VAC 160-20-102. In Section 18 VAC 160-20-102, the fee structure remains the same. Language has been added to make clear that the date a fee is received by the Board is the date that will determine whether the fee is received timely. In addition, language is added to make clear that an additional fee of \$25 will be charged to anyone who submits a check that is dishonored by the institution on which it is drawn.

The substance of Section 18 VAC 160-20-50 has been moved to Section 18 VAC 160-20-120. In Section 18 VAC 160-20-120, a new Class VI facility has been added in order to implement the EPA Guidelines. The descriptions of the other facilities have been modified to reflect current operation practice. The new language makes clear that a licensee may lawfully operate a facility of a lower classification than the classification on his license.

The substance of Section 18 VAC 160-20-60 has been moved to Section 18 VAC 160-20-130. In Section 18 VAC 160-20-130 the descriptions have been modified to reflect current operation practice. The new language makes clear that a licensee may lawfully operate a facility of a lower classification than the classification which appears on his license.

Section 18 VAC 160-20-74 is a new section that continues the substance of repealed Sections 18 VAC 160-20-20 and 18 VAC 160-20-70 requiring an individual to hold a license pertinent to the facility to be operated and prohibits the possession of more than one classification of license in the same category by a single individual.

Section 18 VAC 160-20-76 is a new section that continues the substance of repealed Section 18 VAC 160-20-100, except for the language describing practices that do not comply with the Virginia Administrative Process Act (APA). Language is added that more accurately describes the application procedure, establishes the age of majority as an entry standard and requires disclosure of conviction and disciplinary actions. The language also requires the applicant to disclose his physical address and makes clear that receipt of an application and deposit of fees in no way indicates application approval.

Section 18 VAC 160-20-80 has been amended to simplify the language. In substance, any individual licensed in another jurisdiction that can document that he meets the experience and education requirements of the Board may take the Virginia license examination.

Section 18 VAC 160-20-85 is a new section that implements a provision of the EPA Guidelines recommending the grandparenting of operators of small water systems described as Class VI in the proposed regulations. The EPA is concerned that there are currently many competent operators who should be allowed to continue to function as operators until they can meet the new entry requirements, in order to allow a transition period. States who include grandparenting are mandated to meet the following requirements:

- Grandparenting is permitted only for existing operator(s) in responsible charge of existing systems, which, because of State regulation changes to meet these guidelines, must, for the first time, have a certified operator.

- The system owner must apply for grandparenting for the operator(s) in responsible charge within two years of the effective date of the State's regulation.
- The certification for the grandparented operator must be site specific and non-transferable to other operators.
- The grandparented operator must, within some specific period of time, be required to meet all requirements to obtain license renewal, including the payment of fees, acquiring necessary skills, and demonstrating skills, knowledge, ability and judgement for that classification.
- The grandparented operator's license will become void if the facility is upgraded to a higher classification.
- The grandparented operator's license will become void if he chooses to work for a different facility.

Section 18 VAC 160-20-90 has been amended to clarify language, to reflect the suggestions of the Office of the Attorney General, by deleting "Table 1," which caused confusion, and by adding the entry requirements for the new restricted Class VI waterworks license.

Section 18 VAC 160-20-100 has been proposed for repeal as addressed above under the comments for Section 18 VAC 160-20-76.

Section 18 VAC 160-20-102 has been added and contains the substance of Section 18 VAC 160-20-40, which has been proposed for repeal, as addressed above under comments for Section 18 VAC 160-20-40. In addition, language has been added to make clear that an additional fee of \$25 will be charged to anyone who submits a check that is dishonored by the institution on which it is drawn.

Section 18 VAC 160-20-104 has been added and contains a requirement for regulants to notify the board in writing of any change in name and address, and mandates that regulants practice under the name in which their license is issued.

Section 18 VAC 160-20-106 has been added and contains the substance of deleted Section 18 VAC 160-20-30. The language continues to specify the license renewal procedure and adds the requirement for licensed waterworks operators to comply with the CPE requirement. The language in the current Section 18 VAC 160-20-30 E, concerning licenses issued under the Board's August 27, 1992 regulations, has been deleted because it is obsolete.

Section 18 VAC 160-20-109 has been added to articulate the new CPE requirement mandated by the new EPA Guidelines. The number of contact hours of CPE required varies depending on the class of license held. More hours are required for higher classes because of the more complicated nature of the higher-class facility operation. CPE is not required for license renewal for less than two years from the date of expiration, because the Board feels the effort to qualify for the examination meets the CPE requirement for the first renewal cycle. CPE subject matter is limited to those areas covered on the Board's current examination. Copies of the examination content are available from DPOR free of charge and will be posted to the DPOR web site. Courses approved by the Board to substitute for training credits or formal education are acceptable as CPE. The nature of the evidence of CPE completion to be submitted and maintained by licensee is specified. Evidence of completion must be maintained for a period of

at least one-year following the license renewal cycle for which the CPE was completed. The same training may not be taken more than once for CPE credit during a single license renewal cycle unless it is an annual training requirement of Virginia or federal regulations. A provision has been included to allow the licensee to petition the Board for additional time to complete the CPE requirement. The Board will make decisions on these requests on a case-by-case basis. It is anticipated that these requests will result from licensee injury, illness or family situation that makes additional time appropriate.

Section 18 VAC 160-20-110 has been repealed and its substance moved to new Section 18 VAC 160-20-140. The new language contains the provisions of the repealed section, one of which has been revised for clarity. A provision concerning criminal convictions has been added to make clear that individuals convicted of felonies and certain misdemeanors are subject to license denial, suspension or revocation. Licensees are required to notify the Board of convictions of certain felonies. Gross negligence or a continued pattern of incompetence has been added as grounds for disciplinary action.

Section 18 VAC 160-20-160 is the former "Appendix A," that contained the standards for approval of specialized training courses. The appendix has been restyled as Section 18 VAC 160-20-160 and contains the language found in the appendix with some clarifying amendments. The language specifies how the training can be substituted for the experience required for licensure and the standards the training courses must meet to be approved. The information to be submitted by those seeking training course approval is specified. Additional provisions are included for recurring training programs, which will save some cost and effort for both providers of the training and the Board.

Family Impact Statement

Please provide an analysis of the regulatory action that assesses the impact on the institution of the family and family stability including the extent to which the regulatory action will: 1) strengthen or erode the authority and rights of parents in the education, nurturing, and supervision of their children; 2) encourage or discourage economic self-sufficiency, self-pride, and the assumption of responsibility for oneself, one's spouse, and one's children and/or elderly parents; 3) strengthen or erode the marital commitment; and 4) increase or decrease disposable family income.

There is believed to be no adverse effect for families in the Commonwealth.